



State of Utah

Department of  
Environmental Quality

Richard W. Sprott  
*Executive Director*

DIVISION OF SOLID AND  
HAZARDOUS WASTE  
Dennis R. Downs  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

January 24, 2008

Tye K. Rogers, Vice President  
Compliance and Permitting  
EnergySolutions, LLC  
605 North 5600 West  
Salt Lake City, Utah 84116

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**Subject: Notice of Violation**

Dear Mr. Rogers:

Please find enclosed a Notice of Violation (NOV) based on self-identified issues of noncompliance at EnergySolutions' South Clive Mixed Waste Facility which occurred between October 1, 2006 and September 30, 2007.

You are hereby requested to submit to this office on or before February 25, 2008, written verification that the violations documented in the NOV have been corrected. The notification should include an explanation of the steps taken to correct the problems and the corrective actions implemented to ensure that these violations do not recur.

If you have any questions, please contact Mark Christensen at (801) 538-6170.

Sincerely,

**ORIGINAL DOCUMENT SIGNED BY DENNIS R. DOWNS ON 1/24/08**

Dennis R. Downs, Executive Secretary  
Utah Solid and Hazardous Waste Control Board

DRD/MEC/tjm

Enclosure

c: Myron Bateman, E.H.S., M.P.A., Health Officer, Tooele County Health Department  
Loren Morton, UDRC  
Eric Johnson, U.S. EPA, Region VIII, ENF-RC

TN200800053

288 North 1460 West • PO Box 144880 • Salt Lake City, UT 84114-4880 • phone (801) 538-6170 • fax (801) 538-6715  
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**BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD**

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In the Matter of:	:	<b><u>NOTICE OF VIOLATION</u></b>
		:
	:	
ENERGYSOLUTIONS, LLC.	:	<b><u>No. 0801002</u></b>
UTD982598898		

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This **NOTICE OF VIOLATION** is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the Utah Solid and Hazardous Waste Act (the Act), Section 19-6-101, et seq., Utah Code Annotated 1953, as amended (Utah Code Ann.). The Board has delegated to the Executive Secretary the authority to issue such **NOTICES** in accordance with Subsection 19-6-107 (7) of the Act and R315-12-2.2(a) of the Utah Administrative Code (the Rules).

**FINDINGS**

1. EnergySolutions, LLC is a Utah corporation licensed to conduct business in the State of Utah. The EnergySolutions facility is located south of the Clive exit #49 on Interstate 80 in Tooele County. Effective February 3, 2006, EnergySolutions, LLC changed its name from Envirocare of Utah, LLC to EnergySolutions, LLC. Several violations alleged in this NOV occurred when the facility was named Envirocare of Utah, LLC. The name "EnergySolutions" is used wherever applicable in this NOV.
2. EnergySolutions (the Permittee) is a "person" as defined in UCA 19-1-103(4) and is subject to all applicable provisions of the Utah Solid and Hazardous Waste Act, the Utah Administrative Code (Rules) and its Permit.
3. EnergySolutions (then Envirocare) was issued a Hazardous Waste Permit (Permit) to operate a hazardous waste treatment, storage and disposal facility on November 30, 1990. The Permit was reissued effective April 4, 2003.
4. The EnergySolutions' permit identifies the facility's hazardous waste management units, the wastes it is permitted to handle, and the operating conditions under which EnergySolutions functions.
5. EnergySolutions generates listed and characteristic hazardous waste as defined by R315-2 of the Rules.

6. Authorized representatives of the Utah Solid and Hazardous Waste Control Board (inspectors) conducted compliance evaluation inspections at the Permittee's facility between October 1, 2006 and September 30, 2007. During the inspection period, the Permittee submitted letters of non-compliance to the Executive Secretary. Based on notifications of non-compliance from the Permittee, the following FINDINGS were documented.
7. In a letter dated December 12, 2006, the Permittee identified an instance of noncompliance with Condition 7.g.iii of Attachment II-1-10 (*Management of Waste Containing PCBs*) of the Permit. Condition 7.g.iii requires a shipment to be rejected for receipt and disposal and returned to the generator when free liquids are present within that shipment. Contrary to that condition, the Permittee received container Y12C9918836 with free liquids that previously contained PCB waste. The liquid-free container was macroencapsulated on December 1, 2006.
8. In a letter dated January 18, 2007, the Permittee identified an instance of noncompliance with Condition IV.6 of Attachment II-1-3 (*Waste Stabilization Plan*) of the Permit. Condition IV.6 requires that, at least seven days prior to initiating treatment, the established treatment formula and an estimated schedule of treatment be submitted to the Executive Secretary for approval. Contrary to that condition, the Permittee did not provide to the Executive Secretary, the established treatment formula and estimated schedule of treatment for two containers of waste that were treated from waste stream 9307-14 and disposed in the mixed waste landfill cell on November 1, 2006.
9. In a letter dated January 18, 2007, the Permittee identified an instance of noncompliance with Condition IV.5 of Attachment II-1-3 (*Waste Stabilization Plan*) of the Permit. Condition IV.5 requires that Executive Secretary approval be received prior to using a treatment formula that has a weight ratio exceeding two. Contrary to that condition, the Permittee used a treatment formula for two containers of waste from waste stream 9307-14 that had a weight ratio which exceeded two without approval from the Executive Secretary. The waste was disposed in the mixed waste landfill cell on November 1, 2006.
10. In a letter dated April 23, 2007, the Permittee identified an instance of noncompliance with Condition 7.c. of Attachment II-6 (*Contingency Plan*) of the Permit. Condition 7.c. requires that copies of the Contingency Plan and subsequent revisions be provided to response agencies. Contrary to that condition, the Permittee did not provide copies of the April 2007 revisions of the Contingency Plan to the response agencies identified on page 2 of the Plan and to the Utah Division of Environmental Response and Remediation.

### **DETERMINATION OF VIOLATIONS**

Based on the foregoing FINDINGS, EnergySolutions has violated provisions of the Rules and its Permit applicable to its facility. Specifically, EnergySolutions has violated the following:

1. Condition 7.g.iii of Attachment II-1-10 (*Management of Waste Containing PCBs*) of the Permit by not rejecting for receipt a container with free liquids present and returning it the generator. See Finding 7.
2. Condition IV.6 of Attachment II-1-3 (*Waste Stabilization Plan*) of the Permit by not providing the Executive Secretary the established treatment formula and estimated schedule of treatment for two containers of waste. See Finding 8.
3. Condition IV.5 of Attachment II-1-3 (*Waste Stabilization Plan*) of the Permit by not notifying the Executive Secretary and receiving approval for using a treatment formula for two containers of waste that had a weight ratio which exceeded two. See Finding 9.
4. Condition 7.c. of Attachment II-6 (*Contingency Plan*) of the Permit by not providing copies of revisions to the Contingency Plan to the response agencies identified in the Permit. See Finding 10.

### **OPPORTUNITY FOR HEARING**

This **NOTICE OF VIOLATION** is effective immediately and shall become final unless contested within 30 days of issuance through a request for agency action in accordance with R315-2-14(b) of the Rules. Section 19-6-113(2) of the Utah Code Annotated also provides that violators of any order, plan, rule, or other requirement issued or adopted thereunder may be subject to a civil penalty of up to thirteen thousand (\$13,000.00) dollars per day for each day of violation.

Dated this \_\_\_\_\_ day of January 2008

By: \_\_\_\_\_

Dennis R. Downs, Executive Secretary  
Utah Solid and Hazardous Waste Control Board